REMARKS

This communication is responsive to the Office Action received June 9, 2009. In the Office Action of June 9, 2009, claims 1, 2, 4-9, 11-16, 18-23, and 25-28 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. Claims 1-28 were provisionally rejected under the doctrine of obviousness-type double patenting over claims 1-44 of copending Application No. 10/730,897. Claims 1, 2, 4, 8, 9, 11, 15, 16, 18, 22, 23 and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dumarot et al., U.S. Patent No. RE38865 ("Dumarot") in view of Arquie et al., U.S. Patent No. 7,219,300 ("Arquie"). Claims 5, 6, 12, 13, 19, and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dumarot in view of Arquie and in further view of APA. Claims 7, 14, and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dumarot in view of Arquie, APA, and further in view of Bowker. Claims 1, 2, 4-9, 11-16, 18-23, and 25-28 are now pending in this application. Claims 1, 8, 15, and 22 have been amended in order to clarify the subject matter that the Applicant considers to be the invention. No new matter has been added.

Provisional Double Patenting Rejection

Regarding the provisional double patenting rejection, as this rejection is currently provisional, if copending Application No. 10/730,897 is allowed prior to allowance of the present application, the Applicant will file a Terminal Disclaimer in the present application.

Rejection under 35 U.S.C. § 103(a)

The Applicant respectfully submits that claims 1, 2, 4, 8, 9, 11, 15, 16, 18, 22, 23 and 25 are not unpatentable over Dumarot in view of Arquie. Dumarot discloses a

method of optimizing the operation of a computer system in running application programs in accordance with system capabilities, user preferences and configuration parameters of the application program. Dumarot discloses records in a database that can be optimized to enhance systems performance Dumarot discloses modifying entries in a configuration file or database. While these entries may be modified while the application being optimized is running, Dumarot does not disclose that the modifications take effect in real-time nor does Dumarot disclose that information, such as a specific control parameter, is displayed along with measurement performance values related to the specific control parameter in a display.

In contrast, the present invention claims the features of "the information relating to each parameter [being] accessible by the selection of a tab for each respective parameter and displayed in a parameter panel and the measurements of performance are displayed in a measurement panel" and "the value of the at least one measurement of performance of the application is displayed in the measurement panel." The optimizer GUI disclosed by Dumarot does not display information as claimed by claims 1, 8, 15 and 22.

Arquie does not cure the deficiencies of Dumarot. Arquie merely discloses that it is know to display performance information in real time. There is no disclosure in Arquie about displaying information as claimed by claims 1, 8, 15, and 22.

Therefore, claims 1, 8, 15, and 22, and claims 2, 4, 9, 11, 16, 18, 23 and 25 which depend therefrom, are not unpatentable over Dumarot in view of Arquie.

The Applicant respectfully submits that claims 5, 6, 12, 13, 19, and 20 are not

unpatentable over Dumarot in view of Arquie and APA because even if Dumarot, Arquie and APA were combined as suggested by the Examiner, the result still would not disclose or suggest the requirements of the claims. Therefore, claims 5, 6, 12, 13, 19, and 20 are not unpatentable over Dumarot in view of Arquie and APA.

The Applicant respectfully submits that claims 7, 14, and 21 are not unpatentable over Dumarot in view of Arquie, APA, and further in view of Bowker, for at least the same reasons discussed above with respect to claims 1, 8, 15, and 22.

Each of the claims now pending in this application is believed to be in condition for allowance. Accordingly, favorable reconsideration of this case and early issuance of the Notice of Allowance are respectfully requested.

Additional Fees:

The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with this application to Deposit Account No. 50-4545 (5231-088-US01).

Conclusion

In view of the foregoing, all of the Examiner's rejections to the claims are believed to be overcome. The Applicants respectfully request reconsideration and issuance of a Notice of Allowance for all the claims remaining in the application. Should the Examiner feel further communication would facilitate prosecution, he is urged to call

the undersigned at the phone number provided below.

Respectfully Submitted,

/Chadwick A. Jackson, Reg. No. 46,495/

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Chadwick A. Jackson
Reg. No. 46,495

Hanify & King, Professional Corporation
1055 Thomas Jefferson St., N.W.
Suite 400
Washington, D.C. 20007
Direct: (202) 403-2102
Fax: (202) 429-4380